

## Proposed Tentative Fishing Regulation Changes—2009

*Note: new language is in italics.* Deleted language has a strike through it.

July 23, 2008

### WESTERN DISTRICT

CHANGE-(page 5)

#### **Bull Trout**

Hungry Horse Reservoir, Lake Koocanusa and part of the South Fork Flathead River are open for a regulated and experimental bull trout angling season. When fishing for bull trout each angler must have in possession a valid Bull Trout Catch Card for the specific water he/she is fishing. *Anglers may select only one of the following areas: a) Lake Koocanusa or b) Hungry Horse Reservoir/South Fork Flathead River.*

Catch Cards are free of charge, but must be acquired by application from the FWP Region Office in Kalispell or online at [www.fwp.mt.gov](http://www.fwp.mt.gov). Completed applications must be presented at the regional headquarters or mailed to FWP Bull Trout Permit, 490 North Meridian, Kalispell MT 59901. ~~Your 2007 Catch Card must be turned in to the Kalispell FWP office before you will be issued a 2008 Catch Card.~~

Rationale: The experimental bull trout fisheries are regulated under special permit from the US Fish and Wildlife Service since bull trout are listed as threatened under the Endangered Species Act. The permit requires follow-up surveys to track angler use and harvest. Nearly half the anglers sign up for both drainages but only a few percent actually fish both drainages. Requiring anglers to choose only one area would reduce workload and improve survey effectiveness. Support staff currently must issue separate permits/catch cards for Lake Koocanusa and Hungry Horse/South Fork, a time-consuming effort. The change will reduce survey costs, while little fishing opportunity will be lost. In addition, the Lake Koocanusa fishery runs 7-1/2 months longer than the Hungry Horse/South Fork fishery (HH/SF). This delays surveying the HH/SF fishery and greatly complicates getting accurate survey results to justify continuation of the fishery. The proposed deletion of the mandatory return of catch cards is due to the fact that compliance is poor, and we will instead conduct more timely mail surveys of anglers to get the necessary information.

CHANGE-(page 28)

#### **BLACKFOOT RIVER AND TRIBUTARIES**

##### **Mainstem and all tributaries except for the Clearwater River**

- Catch-and-release for cutthroat trout
- Combined Trout: 3 daily and in possession, no rainbow trout over 12 inches, and size brown trout (see Clearwater River Drainage for exception.)
- Artificial lures only within 100-yard radius of the mouths of Belmont Creek, *Copper Creek*, Gold Creek, Monture Creek and North Fork Flathead River.

Rationale: The artificial lures only within a 100-yard radius of the mouth proposal is intended to help protect spawners exiting the Blackfoot River and is consistent with regulations at the mouths of a majority of other fluvial bull trout spawning tributaries (i.e. Gold and Belmont, Monture Creek and the North Fork) to the Blackfoot River. See individual entry for Copper Creek for the rationale for its inclusion to this list.

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**CEDAR CREEK (tributary to Clark Fork River)**

- Artificial lures only, *including* within a 100-yard radius of the mouth.

Rationale: This wording change has the effect of prohibiting the use of bait over the length of Cedar Creek, not just at the mouth. This regulation change addresses protection and conservation of one of the few remaining migratory bull trout populations remaining in the middle Clark Fork region. Although the bull trout population in Cedar Creek is greatly depressed, it represents one of the three strongest remaining fluvial population in the middle Clark Fork region. Fishing pressure on this stream is low, but concentrated during the migration, staging and spawning periods (June-Sept) in the same reaches that spawning adults occupy. Bull trout are very vulnerable to anglers and particularly susceptible to intentional and unintentional capture with bait. Rates of successful release of trout caught with bait are low (about 30% mortality) relative to artificial lures (about 5% mortality) based on published literature and field observations. This regulation change is one measure considered necessary to help ensure the persistence of bull trout in the middle Clark Fork region.

CHANGE-(page 32)

**CLEARWATER RIVER DRAINAGE**

Clearwater River upstream from Lake Inez Fish Barrier and *all* tributaries of Clearwater River *except the West Fork and Morrell Creek*.

- Catch-and-release for cutthroat trout
- Catch-and-release for bass
- Northern pike: no limit
- Combined trout: 3 daily and in possession, none over 12 inches
- Spearing: open for northern pike
- *Closed to fishing from Rainy Lake Fish Barrier downstream 100 yards.*

Clearwater River from Lake Inez fish barrier downstream to Salmon Lake outlet

- Open entire year
- Catch-and-release for bass
- Northern pike: no limit
- Spearing: open for northern pike
- Snagging: open for salmon from Lake Inez Fish Barrier to Seeley Lake from September 15 through November 30. Closed to snagging from Seeley Lake to Salmon Lake
- *Closed to fishing from Lake Inez fish barrier downstream 100 yards.*

Rationale: Fish, including bull trout and westslope cutthroat trout, congregate at the dams and are very susceptible to angling. Excessive illegal harvest has been documented in 2008 and unintentional hooking of bull trout at these dams can cause additional mortality to already severely depressed populations. Research to address what species and how many fish congregate at the dams is ongoing, but has already documented high numbers of migratory (adfluvial) native trout. Without closing fishing in these small areas angling could continue and jeopardize the populations and the research. Exceptions for the West Fork and Morrell Creek are shown under separate headings for those waterbodies.

CHANGE–(page 32)

**COPPER CREEK (Tributary to Blackfoot River)**

- Catch-and-release for cutthroat trout
- Combined Trout: 3 daily and in possession, no rainbow over 12 inches, any size brown trout.
- *Artificial lures only, including within a 100-yard radius of the mouth.*

Rationale: Increasing numbers of anglers that are accessing bull trout summer refugia, staging and spawning areas (traditionally premier fishing locations for all trout species). Bull trout are concentrated in these areas when angling pressure is highest (summer/early fall), and they are extremely vulnerable to bait angling. This is particularly the case in Copper Creek where a primary FS road allows many access sites that are available over the length of the stream. Fishing pressure on this stream is increasing and concentrated during summer during migration, staging and spawning periods (June-Sept). Bull trout are very vulnerable to bait angling. Rates of successful release of trout caught with bait are low (~70%) relative to artificial lures (~95%) based on published literature and field observations. This regulation change is one measure that may help ensure the persistence of bull trout and deal with increasing angling pressure on bull trout.

NEW-(page 32)

**DUNHAM CREEK (tributary to Monture Creek, Blackfoot drainage)**

- *Catch-and-release for cutthroat trout*
- *Combined Trout: 3 daily and in possession, no rainbow over 12 inches, any size brown trout.*
- *Artificial lures only*

Rationale: This regulation change improves protection and conservation of one of the primary migratory fluvial bull trout stocks in the Blackfoot River. Although depressed, Dunham Creek represent one of the strongest remaining spawning streams in the Blackfoot Basin. Fishing pressure on this stream is increasing and concentrated during the staging and spawning periods (June-Sept). Bull trout are very vulnerable to angling pressure and particularly susceptible to bait. Rates of successful release of trout caught with bait are low relative to artificial lures based on published literature and field observations. Closure of the primary spawning reach is not considered necessary at this time.

CHANGE-(page 33)

**FISH CREEK AND TRIBUTARIES (tributary to Clark Fork River drainage)**

***Entire drainage***

- *Artificial lures only, including within 100-yard radius of mouth.*

**Mainstem downstream of the confluence of South and West Forks**

- Catch-and-release for cutthroat trout
- Combined trout: 3 rainbow or brown trout in any combination daily and in possession, none over 15 inches
- ~~Artificial lures only within 100-yard radius of the mouth~~

***West Fork of Fish Creek from Indian Creek to confluence with North Fork Fish Creek***

- *Closed entire year*

***North Fork of Fish Creek***

- *Closed entire year*

Rationale: These changes would close two critical bull trout spawning tributaries to fishing (about 9 miles total), and also prohibit the use of bait throughout the Fish Creek drainage, not just at the mouth. These changes address protection and conservation of one of the few remaining migratory bull trout populations remaining in the middle Clark Fork region. Although greatly depressed, Fish Creek represents the strongest remaining fluvial population in the middle Clark Fork. Observations, complaints and concerns from long time residents and landowners suggest that bull trout have greatly declined in abundance and distribution within Fish Creek. Basin-wide electrofishing surveys in 1999-2005 indicate that viable spawning population now only exist in only 2 tributary reaches within Fish Creek, while historic data and angler accounts suggest that several other spawning populations existed. Fishing pressure is high on Fish Creek (mean > 2000 angler days/yr in past decade) and is concentrated in July-August in areas where fluvial bull trout are migrating and staging. Bull trout are very vulnerable to anglers and particularly susceptible to intentional and unintentional capture with bait. Rates of successful release of trout caught with bait are low relative to artificial lures based on published literature and field observations. On-site angler surveys indicate high overall regulation compliance, but there are problems with identifying fish species and a significant incidence of bait fishing.

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**GOLD CREEK (tributary to Blackfoot River)**

- Catch-and-release for cutthroat trout
- Combined trout: 3 daily, no rainbow trout over 12 inches, any size brown trout
- Artificial lures only, ***including*** within a 100-yard radius of the mouth.

Rationale: This wording change has the effect of prohibiting the use of bait over the length of Gold Creek, not just at the mouth. The Gold Creek spawning population is greatly depressed with  $\leq 3$  redds in the stream in recent years. Fishing pressure appears to be heavy above Cow Creek at the spawning sites and bull trout poaching has been

identified at this sites. Bull trout are very vulnerable to angling, particularly bait. Rates of successful release of trout caught with bait (about 30% mortality) are low relative to artificial lures (about 5% mortality) based on published literature and field observations. This regulation change is one measure that may help ensure the persistence of bull trout and deal with increasing angling pressure on bull trout.

NEW-(page 37)

**MARSHALL CREEK (Tributary to West Fork Clearwater River)**

- *Artificial lures only*

Rationale: Although the bull trout population is greatly depressed, the West Fork drainage supports one of the two strongest remaining adfluvial populations in the Clearwater and Blackfoot Drainages. The adfluvial life-history is unique in this region and the West Fork is the primary source of recruitment for Alva and Inez Lakes, as well as a significant spawning area for the Seeley Lake population. Bull trout are very vulnerable to anglers and particularly susceptible to intentional and unintentional capture with bait. Because of this pressure, it is felt necessary to impose gear restrictions (artificial lures only) in Marshall Creek because rates of successful release of trout caught with bait are low relative to artificial lures.

CHANGE-(page 38)

**MONTURE CREEK (tributary to Blackfoot River)**

- Catch-and-release for cutthroat trout
- Combined Trout: 3 daily and in possession, no rainbow over 12 inches, any size brown trout.
- Artificial lures only, *including* within a 100-yard radius of the mouth.

Rationale: This wording change has the effect of prohibiting the use of bait over the length of Monture Creek, not just at the mouth. This regulation change improves protection and conservation of one of the primary migratory fluvial bull trout stocks in the Blackfoot River. Fishing pressure on this stream is increasing and concentrated during the summer when fish enter thermal refugia areas as well as during primary migration, staging and spawning periods (June-Sept). Bull trout are very vulnerable to angling pressure and particularly susceptible to bait. Rates of successful release of trout caught with bait are low relative to artificial lures based on published literature and field observations. The migration, staging, and rearing areas are most susceptible to angler-caused mortality.

NEW-(page 38)

**MORRELL CREEK AND TRIBUTARIES (tributary to Clearwater River)**

*Entire drainage*

- *Artificial lures only*

*Mainstem from Cottonwood Lakes Road bridge upstream to Pyramid Pass Road bridge*

- *Closed entire year*

Rationale: Although the bull trout population is greatly depressed, Morrell Creek supports one of the two strongest remaining adfluvial populations in the Clearwater and Blackfoot Drainages. The adfluvial life history is unique in this region and Morrell Creek is the primary source of recruitment for Seeley and Salmon Lake populations. Fishing pressure on this stream is low, but primarily occurs during the migration, staging and spawning periods (June-Sept) in the same areas occupied by adult bull trout. Bull trout are very vulnerable to anglers and particularly susceptible to intentional and unintentional capture with bait. Rates of successful release of trout caught with bait are low relative to artificial lures based on published literature and field observations. Because of this pressure, it is felt necessary to close angling in the primary spawning area (about 5 miles total) and impose gear restrictions (artificial lures only) in the rest of the drainage. Loss of angler opportunity would be minor in the section proposed for closure as westslope cutthroat trout are the only other common trout species. Size distribution is small for cutthroat trout in this reach (nearly all < 9 inches) and similar angling opportunities are found in numerous nearby streams and other reaches of Morrell Creek. Morrell Creek lies directly adjacent to the town of Seeley Lake and the spawning section proposed for closure is very accessible (bordered on both sides by open roads). Proposed restrictions balance angling opportunity with minimal protection of a primary spawning reach for the watershed and the cumulative problem of high catch-and-release mortality.

CHANGE-(page 38)

#### **NORTH FORK BLACKFOOT RIVER (tributary to Blackfoot River)**

##### ***Entire River***

- Catch-and-release for cutthroat trout
- Combined Trout: 3 daily and in possession, no rainbow over 12 inches, any size brown trout.
- ~~Artificial lures only within 100-yard radius of the mouth.~~

##### ***Downstream of the North Fork Falls***

- *Artificial lures only, including within a 100-yard radius of the mouth.*

Rationale: This wording change has the effect of prohibiting the use of bait over the length of the North Fork below the falls, not just at the mouth. This regulation change addresses protection and conservation for one of the primary migratory bull trout populations in the Blackfoot River. Increasing numbers of anglers are accessing critical bull trout recovery areas such as refugia, staging and spawning areas (traditionally premier fishing locations for all trout species). FWP personnel have made direct observations of anglers targeting bull trout. Long-time residents and landowners have made complaints and concerns that bull trout have greatly declined in abundance and distribution and are still being targeted by recreation anglers. Bull trout are concentrated when angling pressure is highest (summer/early fall) and are extremely vulnerable to bait angling. Rates of successful release of trout caught with bait are low (~70%) relative to artificial lures (~95%) based on published literature and field observations. This regulation change is one measure that would help ensure the persistence of bull trout and deal with increasing angling pressure on bull trout.

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### **SOUTH FORK FLATHEAD RIVER DRAINAGE**

**Mainstem upstream from Hungry Horse Reservoir (from Crossover Boat Ramp south and upstream to the confluence of Youngs and Danaher creeks.)**

- Bull trout: catch and release from the third Saturday in May through ***July 31*** ~~August 15~~. A Hungry Horse/South Fork Flathead Bull Trout Catch Card must be in possession when fishing for bull trout. See Special License requirements for application information. All bull trout must be released immediately. It is unlawful to possess a live bull trout for any reason.

Rationale: Bull trout fishing is allowed in the South Fork Flathead under a special permit from the US Fish and Wildlife Service since bull trout are listed under ESA. The permit requires conservative management that minimizes the “take” of bull trout. High water temperatures in August could result in higher than desired catch and release mortality. Drought regulations set 60 degrees F as a guideline for closing bull trout fishing. Temperature data for the South Fork Flathead indicates that threshold is reached in late July.

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### **THOMPSON RIVER**

**Entire river**

- Catch and release for cutthroat ***and rainbow trout***
- ~~Combined Trout: 3 less than 10 inches or 2 less than 10 inches and 1 over 18 inches daily and in possession.~~
- Brown trout: 3 of any size
- Artificial lures only, except anglers 14 years of age and younger may use bait.

Rationale: Biologists have had several meetings with concerned anglers to discuss population trends and potential regulation changes. These changes were dropped from the 2008 regulation package to allow for more public outreach. Brown trout have increased in numbers and proportion of the fishery in recent years. This presents potential conflicts with bull trout. Rainbow trout numbers have decreased by half or more. Liberalizing the length limit on brown trout will result in increased angler harvest and bring them into better balance with the other fisheries. Making rainbows catch and release will remove some limited harvest opportunity.

New-(page 44)

### **WEST FORK CLEARWATER RIVER AND TRIBUTARIES**

***Entire drainage***

- *Artificial lures only*

***West Fork Clearwater River upstream of Marshall Creek confluence***

- *Closed entire year*

Rationale: Although the bull trout population is greatly depressed, the West Fork supports one of the two strongest remaining adfluvial populations in the Clearwater and Blackfoot Drainages. The adfluvial life-history is unique in this region and the West

Fork is the primary source of recruitment for Alva and Inez Lakes, as well as a significant spawning area for the Seeley Lake population. Fishing pressure on this stream is low, but occurs during the migration, staging and spawning periods (June-Sept) in the same areas occupied by adult bull trout. Bull trout are very vulnerable to anglers and particularly susceptible to intentional and unintentional capture with bait. Because of this pressure, it is felt necessary to close angling in the primary spawning area (about 6 miles total) and impose gear restrictions (artificial lures only) in the rest of the drainage because rates of successful release of trout caught with bait are low relative to artificial lures. Loss of angler opportunity would be minor in the section proposed for closure as westslope cutthroat trout and brook trout are the only other common trout species. Size distribution is small for cutthroat trout and brook trout in this reach (nearly all < 9 inches) and similar angling opportunities are found in numerous nearby streams and other reaches of the West Fork.

## **CENTRAL DISTRICT**

CHANGE-(page 59)

### **CLARK CANYON RESERVOIR**

- Burbot (ling): 3 daily and in possession, only 1 over 28 inches.
- Combined Trout: 3 daily and in possession, only 1 over 23 inches.

#### **~~Springs entering the reservoir at its south end, near Red Rock River~~**

- ~~Closed as posted.~~

Rationale: The springs conform to flowing waters season, which are normally only open to fishing from the 3<sup>rd</sup> Saturday in May to December 1<sup>st</sup>. The signs are therefore unnecessary and redundant. The simplification as proposed should eliminate any public confusion over postings and any potential entrapment issues if the signs have not been maintained or have been removed by the public. Enforcement issues over the recent past have occurred where people have argued that they were fishing legally during the closed season when closure signs were not readily observable to them.

CHANGE-(page 74)

### **YELLOWSTONE RIVER**

#### **Yellowstone National Park Boundary to I-90 Bridge at Billings**

- Open entire year
- Combined Trout: 4 brown trout and/or rainbow trout daily and in possession, only 1 over 18 inches.

#### **~~Emigrant Bridge to Pine Creek Bridge~~**

- ~~Artificial lures only, except anglers 14 years of age and younger may use bait.~~

#### **Mouth of Clarks Fork River to I-90 Bridge at Billings**

- Hook and Line: 2 lines with 2 hooks per line all year



Rationale: Survey data shows that harvest on the Yellowstone is very low. This change would allow the few anglers that do harvest (and use bait) an additional location to fish. Numerous anglers have made this request. This deletion would also provide for standardization of regulations for a large stretch of the Yellowstone River.

### **EASTERN DISTRICT**

CHANGE-(page 83)

#### **General Paddlefish Regulations for ALL areas.**

**- Clarify the hook size restriction for snagging paddlefish..**

Rationale: The hook size restriction implemented during the 2008 paddlefish season was very successful. Anglers complied with the new rule and less damage to fish was observed. The only confusion arose from the written description and the picture not being the same. Retailers are now ordering 8/0 hooks and all that are available for purchase fit within our required rules. Even with a variance of size between 8/0 hooks produced by the various manufacturers, the written description of 8/0 or smaller is adequate. No picture is needed and it will be removed from the regulation booklet.

CHANGE-(page 83)

#### **Page 83. General Paddlefish Regulations all areas**

##### **Missouri River Downstream from Fort Peck Dam and the Yellowstone River**

- The paddlefish fishery is managed under a harvest target in conjunction with North Dakota. Montana has set regulations so that annual harvest will not exceed 1000 fish. FWP may close the season within 24 hours notice in any year if it appears that the harvest target may be exceeded, and/or immediately at the Intake FAS (Intake Diversion downstream to Cottonwood Creek) when 800 paddlefish have been ~~harvested~~ **processed** at Intake. Call the Miles City FWP office at 406-234-0900 for current information on harvest status.

Rationale: The total harvest of paddlefish exceeded the 1000 fish target during the 2008 season due to the above listed wording. Fish harvested from areas downstream of Intake were not included in the total fish processed at the Intake caviar station, which allowed the total harvest and total processed fish to exceed the 800 fish limit. Changing the word “harvested” to “processed” will eliminate this confusion and will allow the fish manager to close the season once 800 fish have been processed through the caviar station regardless of where they were captured. This will allow the fish manager to close the paddlefish season without exceeding the total population target.

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#### **YELLOWSTONE RIVER**

##### **Downstream from the mouth of the Bighorn River, not including Intake Fishing Access Site**

- ~~Catch and release snagging for paddlefish is not permitted~~ ***Catch and release snagging for paddlefish is allowed ONLY at the Intake FAS – See Intake***

***Fishing Access Site below. Catch and release of paddlefish is not permitted on any other reach of the Yellowstone River or Missouri River below Fort Peck Dam.***

- Snagging: It is illegal to snag for fish, other than paddlefish, downstream from the mouth of the Bighorn River on the Yellowstone River, or downstream from Fort Peck Dam on the Missouri.
- Paddlefish Snagging: ~~Open~~ ***Tuesdays, Wednesdays, Fridays, and Saturdays***, May 15 through June 30 from 6 AM to 9 PM, MST, ~~daily~~ unless closed to harvest earlier by FWP. An unused yellow paddlefish tag is required to fish for paddlefish. The tag must be properly placed on the first paddlefish caught and landed. See Eastern District Standard Regulations for additional important information.

Rationale: Some confusion existed during the 2008 paddlefish season with catch and release regulations. The above correction will help clarify that the only catch and release allowed on the Yellowstone and lower Missouri rivers occurs only at the Intake FAS site. A listing of the days an angler can harvest a paddlefish was inadvertently left out of the Yellowstone River Downstream of the Bighorn section of the 2008 regulations. This led to confusion for anglers who thought they could harvest a paddlefish any day (daily) of the week. This language is found in the Missouri – Downstream from Fort Peck- but was lost in the Yellowstone section. Replacing this language will clarify that harvest is on specific days on the entire Yellowstone River below the Bighorn.